

IN The CIRCUIT COURT OF RANDOLPH County
State of ALABAMA

EX Parte

Billy AHS

CC-90-007

IN Re

CC-90-008

State of ALABAMA

V

Billy AHS

Petitioners Request For A
Judgement by Default

Into this court come Billy AHS (AHS) and does now
move this Honorable Court to for good cause shown
Issue A Judgement by Default IN FAVOR OF AHS.
AHS now presents both indisputable fact and state
and federal law and statuted to up hold this instant
Petition, (To wit)

- A- AHS Filed A Rule 32 Petition For Relief of his ILLEGAL
Conviction And Sentence on the 11 day of APRIL 2005
Where in he RAISED many VALID JURISDICTIONAL ISSUES,
CONCERNING his IN VALID Guilty Plea given on 2-4-91
Due to the Gross misconduct of Attorney
Thomas Jones.

- B- ON 26 APRIL 2005 Judge Tom young did then GRANT ALLS Request to PROCEED IN FORMA PAUPERIS AND ALSO order the CLERK to SERVE A COPY OF this Petition UPON the DISTRICT ATTORNEY.
- C- The DISTRICT ATTORNEY has totally IGNORED not only this INSTANT Petition but ALSO the CLEARLY ESTABLISHED State Statute Rule 32.7(A) PROSECUTOR Response WITHIN 30 DAY AFTER SERVICE OF the Petition OR WITHIN the time other wise SPECIFIED by the COURT the D.A. SHALL File with the COURT AND send to the PETITIONER A Response "ALSO see HUGHLEY V STATE 615 SO 2D 1244 Response by the D.A. must be REQUIRED, other wise the COURT ERRED, is enough to CAUSE REVERSAL; GLASS V STATE 627 SO 2D 1096; PLUS GAY V STATE 624 SO 2D 1389
- D- AS to the ALLEGED Statute OF Limitation OR PROCEDURAL BAR ~~neither~~ neither one hold ANY Power over this INSTANT Petition now Pending see

Eiland v State 668 So 2d 147 & Nicastro v State
624 So 2d 665 Rule 32.2(C) Garner v City of
Brewton 668 So 2d 52; [REDACTED] Plus Nelson v State
2002 WL-31628768, AIA, APP, 2003 WL [REDACTED] 21205839
AIA. Supreme

-E-The court now must Except each And every Issue
And Claim made by Petitioner AS TRUE AND FACTUAL
the U.S. Supreme Court help in COOPER v Pate
378 U.S. 546, 84 Sct 1733) 12 Led 2d 1030
Opinion the trial court must except Allegation
AS true, when no Dispute is offered by the
defendant And (ie) The District Attorney

-F-The Court must now GRANT the Relief sought with
in the pending Rule 32 Petition be GRANTING this
Default Judgement For good CAUSE Show this
Gross miscarriage of Justice is due to be
Rendered null And void.
This motion For Judgement by Default is now due
to be GRANTED And All is due to Receive the
Relief Requested with in the Rule 32
Petition For Relief of Judgement And Sentence.

Reason For Granting Motion

This motion is due to be GRANTED And the Relief Requested within the Rule 32 Petition is due to CORRECT the Gross miscarriage of Justice.

- 1- AINS WAS CLEARLY COERCED into entering A Plea of Guilty by his Defense Attorney Thomas Jones see *McLeod v State* 718 So 2d 727 ALSO *Rule 14.4(2)(b)* *CLARK v State* 294 A1A, 485 318 So 2d 805 ALSO see *Shouldecy v State* 703 So 2d 1017 ON Ineffection ness of Counsel claim PLUS *EXPARTE Besselear* 600 So 2d 978.
- 2- AINS does have the Constitutional And Statutorial Right to With draw his in voluntary Plea see *Nelson v State* WL 212 05837 A1A SUP Ct 2003'' ALSO *CANTU v State* 660 So 2d 1026 And *EXPARTE PARDUE* 797 So 2d _____
- 3- AINS Filed his Pending Petition Rule 32 on the 11 day of APRIL 2005 (PURSUANT to the Instruction given to him by Attorney Jones) to Plea Guilty to CC-90-007 Receive A Sentence of 20 years ~~he~~ he would be Released on PAROLE AFTER 8 years ''AINS not being educated in the matters of LAW did

Not ARULY beleive Jones But he did what Jones INSTRUCTED the Records Will Show that AINS did not file ANY Litigation into his CASE until 4-13-98 when he began to seek the CASE Records From the CIRCUIT CLERK AND Jones ALSO.

- 4- AINS did NOT APPEAL OR ATTACK his CONVICTION due to the VERY REAL HEART OF the POSSIBILITY OF A DEATH PENALTY made by Judge SEGREST WITHIN his Sentencing ORDER.
- 5- AINS WAS ALSO DENIED the CASE Files by this COURT there by CAUSING him A GREATER HANDY CAP IN seeking Justice IN this INSTANT CAUSE.
- 6- THIS COURT HAS IGNORED this timely Petition AND the TRUE merits of the ISSUES RAISED AND is now due to GRANTED AND this GROSS MISCARRIAGE OF Justice CORRECTED by VACATING AINS ILLEGAL CONVICTION.
- 7- Judge young being the PRECIDING Judge in this MATTER KNOWS OR SHOULD KNOW that this INSTANT Petition Rule 32, must be view IN FAVOR OF the Petitioner AINS AND is now due to be GRANTED.

Conclusion

IN CONCLUDING THIS INSTANT MOTION AINS IS NOW
ATTEMPTING TO GIVE RANDOLPH COUNTY CIRCUIT COURT
TO CORRECT THIS GROSS MISCARriage OF JUSTICE.

RespectFULLy Submitted

Billy Gay All

Billy GAY AINS PRO SE

Certificate OF Service

I CERTIFY THAT COPIES OF THIS INSTANT MOTION HAS BEEN
SERVED UPON THE CLERK OF THE UNITED STATE DISTRICT
COURT MIDDLE DISTRICT OF ALA. CASE 3:05-CV-1228-F
ALSO TO THE ATTORNEY GENERAL OFFICE
YVONNE A.H. SAXON ATTORNEY FOR THE RESPONDANT WITH
IN 3:05-CV-1228-F DONE THIS 7 day OF June
2006 BY PLACING SAME IN THE LEGAL MAIL SYSTEM
AT EASTERLING C.F.

Billy All

Billy AINS PRO SE